

BILL ANALYSIS

Senate Research Center
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H.B. 3746
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Intergovernmental Relations
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Engrossed

DIGEST

In 1985, Big Brothers Big Sisters of Central Texas, Inc. (BBBS) purchased property at 1400 Tillery to house its business office. The property is out of McKinley Heights Subdivision and consists of 0.651 acres. Because the original subdivision contained covenants and restrictions that permitted only residential use, a replat of a portion of the subdivision (the 0.651 acres) was necessary to allow BBBS to remodel the building, which originally served as a church, and establish its business operations. BBBS applied for an amendment to the original plat in 1986, and a replat of a portion of the subdivision was approved by the City of Austin (city); it was replatted as the Griffith Subdivision on March 11, 1986. In reliance on the replat, BBBS remodeled the building and received a certificate of occupancy from the city in 1988. Subsequently, the city determined it approved the replat erroneously and advised BBBS that the covenants and the restrictions in the original plat remain applicable, and therefore, a vacation of the original plat and a replat are required.

Currently, a subdivision or a part of a subdivision can be replatted in two ways. The first is by vacating the underlying plat, which requires that all the owners of lots in that plat apply for the vacation of the plat. The other is by recording over the preceding plat without vacation if the replat is signed and acknowledged by only the owner of the property being replatted, approved by the municipal authority responsible for approving plats after a public hearing on the matter, and does not attempt to amend or remove existing covenants or restrictions. Both of these processes may be cumbersome and expensive for a nonprofit corporation like BBBS. This bill would allow a property owner to replat part of a subdivision without vacation of the original plat, and without a public hearing, if the replat is signed and acknowledged by the owner of the property being replatted, and if it involves property that is used for business purposes by a nonprofit corporation established to assist children in at-risk situations, and permits the governing body of a municipality to delegate to one or more persons the authority to approve the replat of part of a subdivision administratively.

PURPOSE

As proposed, H.B. 3746 authorizes certain nonprofit corporations to replat a part of a subdivision without a public hearing and without vacation of the original plat.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 212A, Local Government Code, by adding Section 212.0145, as follows:

Sec. 212.0145. REPLATTING WITHOUT VACATING PRECEDING PLAT; CERTAIN SUBDIVISIONS. (a) Authorizes a replat of a part of a subdivision to be recorded and is controlling over the preceding plat without vacation of that plat if the replat is signed and acknowledged by only the owners of the property being replatted, and involves only property of less than one acre that fronts an existing street, and that is owned and used by a nonprofit corporation established to assist children in at-risk situations through volunteer and individualized attention.

(b) Provides that an existing covenant or restriction does not have to be amended or removed if it was recorded more than 50 years before the date of the replat, and the replatted property has been continuously used by the nonprofit corporation for at least 10 years before the date of the replat.

(c) Provides that Sections 212.014 and 212.015 do not apply to a replat under this section.

SECTION 2. Amends Section 212.0065(a), Local Government Code, to authorize the governing body of a municipality to delegate to certain persons the ability to approve a replat under Section 212.0415 that does not require the creation of a new street or the extension of municipal facilities.

SECTION 3. Emergency clause.
Effective date: upon passage.